

D/L. 18.
March 1, 2024.
MNS.

WPA No. 15707 of 2022
+
CAN 1 of 2024
+
CAN 2 of 2024

Sri Ashok Mehra
Vs.
Union of India and others

Ms. Rashmi Bothra

...for the Union of India.

Mr. Om Narayan Rai,
Mr. J. Choradia,
Ms. S. Indoria,
Mr. D. Tiwari

...for the respondent no. 2/SBI.

Mr. M. S. Tiwari,
Mr. S. K. Tiwari

...for the respondent no. 3/RP.

1. Affidavits-of-service filed by the applicants in Court today be kept on record.
2. Although the respondents/applicants are represented through counsel, none appears for the writ petitioner at the time of call.
3. The writ petition had been preferred *inter alia* challenging the *vires* of Sections 94 to 100 of the Insolvency and Bankruptcy Code, 2016 (in short “the Code of 2016”). In the meantime, the *vires* of Sections 95 to 100 of the Code of

2016 were challenged before the Supreme Court unsuccessfully.

4. Learned counsel appearing in support of both the applications, being the Resolution Professional, who has been appointed in the meantime, and the Bank, place reliance on the judgment of the Supreme Court, where the said provisions were held to be *intra vires*.
5. Learned counsel for the Bank points out that although an additional challenge to Section 94 was also incorporated in the reliefs sought in the writ petition, the same is not germane in the present case, since the application before the National Company Law Tribunal (NCLT) was not at the instance of the corporate debtor.
6. A perusal of the documents annexed to CAN 1 of 2024 and CAN 2 of 2024 clearly shows that in view of the judgement of the Supreme Court, which has come in the meantime, the relevant provisions have been held to be *intra vires*.
7. As such, there is no impediment for the applicants of CAN 1 of 2024 and CAN 2 of 2024 to proceed before the concerned NCLT in connection with the Corporate Insolvency Resolution Process (CIRP) on the self-same issues as involved in the present writ petition.

8. In such view of the matter, CAN 1 of 2024 and CAN 2 of 2024 are allowed, thereby disposing of the writ petition, bearing WPA No. 15707 of 2022, granting the parties liberty to proceed in connection with the CIRP.
9. The interim order granted earlier in connection with the writ petition stands vacated accordingly.
10. There will be no order as to costs.
11. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)